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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



**U.S. Citizenship
and Immigration
Services**

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DATE: Office: ST. PAUL FIELD OFFICE

MAY 26 2011

IN RE: Applicant:

APPLICATION: Application for Adjustment of Status to that of Person Admitted for Permanent Residence under Section 1 of the Cuban Refugee Act of November 2, 1966 (P.L. 89-732)

ON BEHALF OF APPLICANT:

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The application was denied by the Field Office Director, St. Paul, Minnesota, who certified her decision to the Administrative Appeals Office (AAO) for review. The certification will be withdrawn, and matter returned to the field office director for the entry of a new decision.

We are withdrawing the certification because the only basis for the denial was the applicant's failure to properly file a Form I-601, Application for Waiver of Grounds of Inadmissibility. United States Citizenship and Immigration Services' (USCIS) records show that the applicant, through counsel, filed a Form I-601 with fee in February 2011, prior to the issuance of the certification on March 17, 2011. USCIS records do not reveal that the Form I-601 has been adjudicated. The certification is thus withdrawn, pending the adjudication of the Form I-601. Once the Form I-601 has been adjudicated, the director should issue a new decision on the Form I-485.

Pursuant to section 291 of the Immigration and Nationality Act, 8 U.S.C. § 1361, the burden of proof is upon the applicant to establish that he or she is eligible for adjustment of status. Accordingly, the AAO withdraws the field office director's certification and remands the matter for entry of a new decision once the pending Form I-601 has been adjudicated.

ORDER: The director's certification is withdrawn. The matter is remanded to the director for entry of a decision on the applicant's Form I-485 upon adjudication of the pending Form I-601.